

1 IN THE UNITED STATES DISTRICT COURT FOR THE
2 NORTHERN DISTRICT OF OKLAHOMA

3 W.A. DREW EDMONDSON, in his)
4 capacity as ATTORNEY GENERAL)
OF THE STATE OF OKLAHOMA and)
5 OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TOLBERT,)
6 in his capacity as the TRUSTEE)
FOR NATURAL RESOURCES FOR THE)
7 STATE OF OKLAHOMA,)

8 Plaintiff,)

9 vs.)

4:05-CV-00329-TCK-SAJ

10 TYSON FOODS, INC., et al.,)

11 Defendants.)
12
13
14
15
16
17
18
19
20
21
22
23
24
25

VIDEO DEPOSITION OF JOHN LITTLEFIELD,
produced as a witness on behalf of the Defendants in
the above styled and numbered cause, taken on the
2nd day of August, 2007, in the City of Tulsa,
County of Tulsa, State of Oklahoma, before me, Karla
E. Barrow, a Certified Shorthand Reporter, duly
certified under and by virtue of the laws of the
State of Oklahoma.

1 A P P E A R A N C E S
2 FOR THE PLAINTIFF: MR. ROBERT A. NANCE
 MS. SHARON K. WEAVER
3 Attorneys at Law
 502 West 6th Street
4 Tulsa, OK 74119
5 FOR TYSON FOODS: MS. ERIN WALKER THOMPSON
 Attorney at Law
6 The Three Sisters Building
 214 West Dickson Street
7 Fayetteville, AR 72701
8 FOR CARGILL: MS. THERESA NOBLE HILL
 Attorney at Law
9 100 West 5th Street
 Suite 400
10 Tulsa, OK 74103
 and
11 MR. JOHN TUCKER (phone)
12 FOR SIMMONS FOODS: MR. JOHN ELROD
 MS. VICKI BRONSON (phone)
13 Attorneys at Law
 211 East Dickson Street
14 Fayetteville, AR 72701
15 FOR PETERSON FARMS: MR. A. SCOTT McDANIEL
 Attorney at Law
16 320 South Boston
 Suite 700
17 Tulsa, OK 74103
18 FOR GEORGE'S: MR. PAUL E. THOMPSON, JR.
 Attorney at Law
19 221 North College Avenue
 Fayetteville, AR 72701
20
21 FOR CAL-MAINE: MR. ROBERT SANDERS
 Attorney at Law
 2000 AmSouth Plaza
22 P.O. Box 23059
 Jackson, MS 39225
23
24 FOR WILLOW BROOK: MR. DAVID BROWN (Phone)
 Attorney at Law
 314 East High Street
25 Jefferson City, MO 65109

FOR ODAFF:

MS. JANET STEWART
Attorney at Law
2800 N. Lincoln Boulevard
Oklahoma City, OK 73152

1 MR. BROWN: David Brown for Willow Brook.

2 MS. BRONSON: Vicki Bronson for Simmons.

3 VIDEOGRAPHER: Thank you. You can swear
4 the witness.

5 JOHN LITTLEFIELD,
6 being first duly sworn to tell the truth, the whole
7 truth and nothing but the truth, testified as
8 follows:

9 DIRECT EXAMINATION

10 BY MR. ELROD:

11 Q Mr. Littlefield, my name is John Elrod. I
12 represent Simmons Foods in this matter, and I'm
13 going to have a few questions for you. We've not
14 met before today, have we, sir?

15 A No, sir.

16 Q And would you tell me what your name and
17 address is for the record?

18 A John L. Littlefield, 38327 South 4370 Road,
19 Adair, Oklahoma 74330.

20 Q How long have you lived in Adair?

21 A Approximately two years at that place.

22 Q All right, sir. Are you a high school
23 graduate?

24 A Yes.

25 Q What town and what year?

1 question, and I do understand what you said, sir,
2 that you're not -- but if you say that following an
3 animal waste management plan is not all there is to
4 protecting the natural resources of the State, I
5 don't understand what else there is unless you can
6 tell me.

7 **A** I guess I was confused about it, you know, and
8 maybe I still am, I don't know, but I think that the
9 animal waste management plan is designed to protect
10 just, as it says here, the natural resources. So if
11 they follow that, and correctly, it would -- it
12 should protect the natural resources.

13 **Q** Okay. Thank you. Now I understand what
14 you're saying. As the compliance inspector for the
15 State of Oklahoma, is it your view that if a poultry
16 applicator follows the animal waste management plan
17 related to the application site, that that person is
18 complying with Oklahoma law?

19 **A** Yes.

20 **Q** Okay. Now, the people who write these animal
21 waste management plans, they also have to be
22 approved in some fashion by the Department of
23 Agriculture or ODAFF?

24 **A** Yes, that's in the State law.

25 **Q** Okay. In other words, you just can't get --

1 area, particularly.

2 Q Isn't it true that some of these poultry
3 operations, really all that's there is just enough
4 land for the poultry houses and not really any
5 pasture?

6 A That's true.

7 Q I mean, these people are really just in the
8 poultry business?

9 A That's true.

10 Q Okay. Besides the couple of things that
11 you've mentioned, are there other reasons why people
12 are not applying the poultry litter on their -- on
13 the land?

14 A Well, it may be too high in phosphorus, their
15 soil tests, and they can't legally apply.

16 Q From the discussion this morning with Mr.
17 Elrod, I understand there's a real relationship
18 between poultry growing, litter production and
19 grazing cattle, do you agree?

20 A I agree with that.

21 Q And as far as those who are buying litter and
22 having it put on their own land, are those mostly
23 people in the cattle or haying business?

24 A Yes.

25 Q Why -- why do they seek out poultry litter?

1 Why do they want it? It can't be the smell.

2 **A** No, it's not the smell. They -- well, they
3 feel like that it grows -- their land needs the
4 nutrients that's in the litter in most of those type
5 cases, and that it grows grass better than
6 commercial.

7 **Q** Better than commercial fertilizer?

8 **A** Most of them feel that way, I think. I
9 mean --

10 **Q** Do you have -- could you give us some type of
11 estimate in your opinion of what percentage of the
12 pasture in the Illinois River watershed is receiving
13 poultry litter?

14 **A** Oh, I couldn't -- I couldn't do that. I don't
15 know.

16 **Q** Okay.

17 **A** For sure.

18 **Q** But there's a -- would you agree that there's
19 a significant amount of acreage out there that
20 there's not any poultry litter going down on?

21 **A** Yes, I think that's true.

22 **Q** Now, when these cattle ranchers or hay
23 operators are acquiring this litter to put on their
24 own land, and you talked a little bit about this
25 this morning, is it your understanding that they are

1 Q Okay. To your knowledge, has Mr. Saunders
2 done anything on his property that's resulted in the
3 runoff of poultry waste?

4 A Not to my knowledge.

5 Q To your knowledge, has Mr. Saunders done
6 anything to result in the discharge of poultry
7 waste?

8 A Not to my knowledge.

9 Q To your knowledge, Mr. Littlefield, has Mr.
10 Saunders done anything on his property to cause the
11 contamination of the waters of the State of
12 Oklahoma?

13 A Not to my knowledge.

14 Q All right. Let me -- we're done with that
15 one, sir. Let me hand you a list that I marked as
16 Exhibit 16. What this is, Mr. Littlefield, is I'll
17 represent to you that I believe that this is the
18 list -- a list of poultry growers in Oklahoma in the
19 Illinois River watershed that currently have a
20 contract with Peterson Farms. So my first question
21 is, can you identify any of these growers for whom
22 you are the regular inspector? We've already --
23 we've already talked about the Two-Saun Farm next to
24 the bottom. Are there any of the others that are
25 your growers?

1 **A** Yes.

2 **Q** You have a question with regard to Diamond S?

3 **A** That's right.

4 **Q** All right. Can I see your copy of that? And
5 what I'm going to do is I'm going to draw a line
6 through these two names, you can still read them,
7 but I'm going to draw a line through them, and then
8 I'm going to put a question mark by Diamond S, and
9 tell me if by doing that, I've fairly represented
10 your testimony about that list?

11 **A** Yes.

12 **Q** Okay. Now, with regard to the ones that you
13 are aware are within your district, everyone except
14 Anita Andrews, Jeff Andrews, and I'm not going to
15 ask you about Diamond S Farms, everybody else on
16 that list, to your knowledge -- let's see, one, two,
17 three, four, five, six -- to your knowledge, have
18 any one of these Oklahoma poultry growers done
19 anything to cause the contamination of the waters of
20 the state of Oklahoma?

21 **A** Not to my knowledge.

22 **Q** Are you aware of any poultry grower under
23 contract with Peterson Farms, Inc. that has caused
24 the contamination of the waters of the state of
25 Oklahoma in the Illinois River watershed?

1 **A** To what I know, no.

2 **Q** Any grower ever, to your knowledge under
3 contract with Peterson Farms, is your answer still
4 not to your knowledge?

5 **A** Yes, sir.

6 **Q** Okay. The complaint investigation part of
7 your job, we've talked about odor complaints. What
8 other types of complaints do you have to respond to,
9 just by category?

10 **A** Well, application rate, spreading too close to
11 swales or water, you know, contamination, that's
12 mentioned a lot, applying too close to waters of the
13 State, overapplying.

14 **Q** Every -- you talked about it this morning, so
15 I don't want to waste time going through it again,
16 but in order for you to act on a complaint, you have
17 to receive some directive from Oklahoma City; is
18 that true?

19 **A** That's right.

20 **Q** All right. So once -- are you given a
21 specific directive, please go look, see what you
22 find, in other words, you're told what is needed?

23 **A** There is a complaint -- the protocol is they
24 have a complaint form that's filled out.

25 **Q** Okay.

1 in the Illinois River watershed; true?

2 **A** That's true, I'm sure. I don't remember all
3 the incidents, but --

4 **Q** But there have been others?

5 **A** Yes.

6 **Q** Help me understand -- help me understand the
7 magnitude of the problem of illegal litter spreading
8 in the Illinois watershed, to your knowledge.

9 **A** Well, honestly, to my knowledge, I haven't
10 been aware of that magnitude.

11 **Q** Well, help me understand what the magnitude
12 is. Is it seldom, is it occasional, is it fairly
13 frequent or some other way you would like to
14 describe it or think it can be fairly described?

15 **A** For the area that I have of the Illinois
16 watershed, okay, I'm not speaking for the other
17 counties, I would say seldom.

18 **Q** Seldom?

19 **A** Yes, sir.

20 **Q** Okay. This Mr. Perry Williams, to your
21 knowledge, is he a poultry grower?

22 **A** No, he is not, in Oklahoma. I don't know
23 about --

24 **Q** To your knowledge, he's not?

25 **A** To my knowledge, yes.

1 **A** Yes, I do.

2 **Q** How many? I'm not going to test you on this.

3 **A** Yeah, don't. I think -- I think I have now
4 have two.

5 **Q** Do you happen to know their names, off the top
6 of your head?

7 **A** Well, Glen is one of them, Glen Brothers.

8 **Q** Okay.

9 **A** And the other one is Martin Baer, Byer.

10 **Q** Yes, sir. You said you currently have two
11 George's growers. Has the number of George's
12 growers in your area decreased, say over --

13 **A** No.

14 **Q** -- the last five years?

15 **A** No, I -- I probably said that wrong. I can't
16 remember -- I've never had very many.

17 **Q** Right.

18 **A** And I think even that Martin Baer has changed
19 integrators. Maybe he hasn't.

20 **Q** I'd represent to you that I don't know of it
21 if he has.

22 **A** Okay. But anyway, I've had some and some that
23 did, yes, sir.

24 **Q** But regarding the two that you currently have,
25 to your knowledge, have either of those folks, on

1 their farms, caused a discharge of phosphorus into
2 the waters of Oklahoma?

3 **A** Not to my knowledge, no, sir.

4 **Q** Do you know if they've ever caused a runoff of
5 poultry waste from their property?

6 **A** Not to my knowledge.

7 **Q** To your knowledge, have they ever polluted the
8 waters of the state of Oklahoma?

9 **A** Not to my knowledge.

10 **Q** I told you, infantry guys are short and sweet.

11 **A** There you are. I appreciate that.

12 DIRECT EXAMINATION

13 BY MS. HILL:

14 **Q** We'll see if we can keep getting shorter as we
15 go along, Mr. Littlefield. We met earlier today.
16 I'm Theresa Hill, again, and I represent Cargill
17 entities, and I just wanted to go back over a few of
18 the exhibits that we've gotten today. Would you
19 turn to Exhibit No. 3? You've got it. You were
20 cc'd on that letter. You were copied on the letter,
21 at the bottom it shows?

22 **A** Yes.

23 **Q** Is that something that you would have kept in
24 your files at home, an example of a letter?

25 **A** Probably.

1 **A** Yes, I am.

2 **Q** Are there any other Cargill contract growers
3 that you currently inspect their farms for ODAFF?

4 **A** Does Butterball come --

5 **Q** No.

6 **A** -- anymore? I have a lot of -- I have some --
7 I -- the ones I have are in Ottawa County, most of
8 them turkey growers.

9 **Q** It might be -- the trade name is Honeysuckle
10 White.

11 **A** Okay.

12 **Q** You might see that on a farm.

13 **A** No.

14 **Q** No.

15 **A** No.

16 **Q** So Gary Fisher is the only one you know of
17 currently?

18 **A** Yes.

19 **Q** How about in the past, are you aware of any
20 other Cargill growers in the past who you --

21 **A** No, no, not -- not in my area.

22 **Q** Okay. Then are you aware then whether Mr.
23 Fisher follows the rules in his nutrient and his
24 animal waste management plan?

25 **A** I'm not aware of any violations that he's

1 done.

2 Q And as his inspector, you would be aware of
3 any violations?

4 A I'm not there at the farm all the time, you
5 know, but according to his records and according to
6 what I purpose -- personally see out there on his
7 farm, I don't see a problem.

8 Q Okay. Are you aware of any Cargill growers
9 who have done anything to cause runoff of poultry
10 waste into the Illinois River watershed?

11 A I'm not -- I'm not aware of any.

12 Q Are you aware of any Cargill growers who have
13 done anything to cause a discharge of poultry waste
14 into the Illinois River watershed?

15 A Not to my knowledge.

16 Q Are you aware of any Cargill growers who have
17 ever caused contamination of the waters of the state
18 of Oklahoma?

19 A Not to my knowledge.

20 MS. HILL: Those are all the questions I
21 have for you, Mr. Littlefield. Thank you.

22 A Thank you.

23 DIRECT EXAMINATION

24 BY MS. THOMPSON:

25 Q Mr. Littlefield, my name is Erin Thompson, and

1 I represent the Tyson defendants in this lawsuit.
2 Other than with respect to a company managed or
3 company owned farm, poultry integrator companies do
4 not receive animal waste management plans; correct?

5 **A** Company owned?

6 **Q** Other than with respect to company owned farms
7 or company managed farms?

8 **A** Oh, no requirement that I know of.

9 **Q** Okay. Like I said, I represent the Tyson
10 defendants --

11 **A** Uh-huh.

12 **Q** -- which includes Tyson Foods, Tyson Chicken,
13 Tyson Poultry and Cobb-Vantress, so in the next few
14 questions I ask you, I'm just going to say Tyson,
15 but I wanted to make sure that we understand that it
16 refers to all four. Okay. Are there currently any
17 poultry growers who are under contract with Tyson
18 that are in your jurisdiction?

19 **A** That's in what?

20 **Q** In your jurisdiction, your area?

21 **A** Yes, there is.

22 **Q** And have you always had poultry growers who
23 are under contract with Tyson in your jurisdiction?

24 **A** Yes, they have.

25 **Q** Okay. To your knowledge, has any poultry

1 grower under contract with Tyson ever caused a
2 discharge of poultry waste?

3 **A** Not to my knowledge.

4 **Q** And to your knowledge, has any poultry grower
5 under contract with Tyson ever done anything to
6 cause a runoff of poultry waste?

7 **A** Not to my knowledge, but I want to explain
8 something. You know, I'm sitting here saying not to
9 my knowledge, and there could have been a time. To
10 my knowledge, I don't --

11 **Q** Okay.

12 **A** -- but there might have been a time where
13 there has been a complaint against one that I went
14 out, I don't remember. So to say never, I don't
15 know for sure, but to my knowledge, I don't know of
16 any.

17 **Q** Right, and that's -- that's all we're asking
18 is just --

19 **A** Okay.

20 **Q** -- to the best of your knowledge. And then to
21 your knowledge, has any poultry grower that is under
22 contract with Tyson or has ever been under contract
23 with Tyson caused contamination of the waters of the
24 state of Oklahoma?

25 **A** Not to my knowledge, no.

1 Q Okay.

2 MR. NANCE: Nothing further.

3 REDIRECT EXAMINATION

4 BY MR. ELROD:

5 Q Let me ask you about integrator change. Do
6 you see that very often?

7 A Not real often, no.

8 Q But it occurs?

9 A But it occurs, yes.

10 Q And then by that I mean, to be more specific,
11 a grower will change from one company to another for
12 growing chickens?

13 A That's true.

14 Q To your knowledge, do you know of any Simmons
15 growers in the Illinois River watershed who have
16 caused poultry discharge into the waters of the
17 state of Oklahoma?

18 A No, I'd have to say the same thing that I -- I
19 said to her. I -- I'm sure with as many Simmons
20 people I have, they've had complaints against them
21 for that purpose, but I'm not aware of any right
22 now.

23 Q And to your knowledge, have any Simmons
24 growers polluted or contaminated the waters of the
25 state of Oklahoma?

1 **A** Not to my knowledge.

2 MR. ELROD: That's all I have.

3 MS. HILL: Scott, anybody else?

4 MR. ELROD: Bob?

5 MR. SANDERS: Oh, no, nothing further.

6 Thank you.

7 MR. ELROD: Bob?

8 MR. NANCE: Nothing for me.

9 MR. ELROD: I think we're done, sir. Thank
10 you very much.

11 THE WITNESS: Thank you.

12 MR. NANCE: You need to say on the record
13 whether or not you want to read and sign the
14 transcript that the court reporter will prepare.

15 THE WITNESS: Now, you mean or --

16 MR. NANCE: You need to say while we're
17 here whether or not you want to review it.

18 MS. STEWART: But not read it today, but --

19 THE WITNESS: Oh. I started to say, I want
20 to go home.

21 MR. NANCE: It just needs to be on this
22 transcript.

23 THE WITNESS: Yeah, I'd like to read it.

24 MR. NANCE: Okay. Thank you.

25 VIDEOGRAPHER: This concludes the